IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

RP.No. 650 of 2007(N)

AGAINST THE JUDGEMENT/ORDER IN WPC.19457/2007 Dated 25/06/2007

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REVIEW PETITIONERS/ RESPONDENTS IN WPC:
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1. **C.PANKAJAKSHAN, S/O.KUTTY, RESIDING AT 18/1182 A, KOZHIPURATH HOUSE, NEAR DISTRICT JAIL, PUTHIYARA, KASBA AMSOM DESOM, KOZHIKODE TALUK.**

2. **NANDUKANDY VIJAYALAKSHMI, D/O.KUTTY, KATTUKANDY PARAMBA HOUSE, KASBA AMSOM DESOM, KOZHIKODE TALUK.**

3. **THIPPILIKKATTU PARAMBATH SUBADRA, D/O.KUTTY, RESIDING AT GOVINDAPURAM VALAYANAD AMSOM DESOM, KOZHIKODE TALUK.**

4. **PATHANGADI PREMALATHA, D/O.KUTTY, RESIDING AT KOZHIPARAMBATH HOUSE, VALAYANAD AMSOM DESOM, KOZHIKODE TALUK.**

5. **ILLATHKANDY KSHEMADEVI, D/O.KUTTY, RESIDING AT 26/92, VALAYANAD AMSOM DESOM, KOZHIKODE TALUK.**

6. **C.GOPINATHAN, S/O.KUTTY, P.V.BOOKSTALL, S.M.STREET, CALICUT-673 001, NAGARAM AMSOM DESOM, KOZHIKODE TALUK.**

7. **PUTHUSSERI PARAMBIL SUMITHRA, D/O.KUTTY, P.O.MANASSERY, MUKKOM, KOZHIKODE TALUK.**

8. **KARIMBIL RAMADEVI, D/O.KUTTY, RESIDING AT 4/470, GEETHA, KALATHIL KUNNU AMSOM DESOM, KOZHIKODE TALUK.**

BY ADV. SMT.LATHA PRABHAKARAN
SRI.K.M.JAMALUDHEEN
SRI.T.NANDAKUMAR

RESPONDENTS: PETITIONERS IN WPC:
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1. **CHEROOLI MURALEEDHARAN, S/O.KUTTY,**
   BEHIND GOVINDAPURAM LIBRARY, VALAYANAD AMSOM DESOM
   KOZHIKODE TALUK.

2. **C.ANILKUMAR, S/O.PEETHAMBARAN, RESIDING**
   AT 18/1417, KASBA AMSOM , KARIYAKUNNU DESOM,
   KOZHIKODE TALUK.

3. **C.NANDAKUMARAN, S/O.KUTTY, RESIDING AT**
   KOZHIPURATH HOUSE, KASABA AMSOM, KARIYAKUNNU DESOM
   KOZHIKODE TALUK.

4. **C.GOKULAPALAN, S/O.KUTTY, RESIDING AT**
   PUTHIYANGADI AMSOM AND DESOM, KOZHIKODE TALUK.

BY ADV. SRI.V.V.SURENDRAN

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 18/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.
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R.P. 650 OF 2007
IN W.P.C.NO. 19457 OF 2007
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Dated this the 18th day of July, 2007.

O R D E R

This review petition is filed to review the order passed by me on 25th June, 2007. By the said order I directed the Court below to issue a Commission for examination of the first defendant. By relying upon Explanation to Order XXVI Rule 1 I thought the medical certificate can be looked into and therefore allowed the application. On a perusal of the medical certificate I was convinced that there was some difficulty for the first defendant and the Doctor has certified that on account of the prostrate problem he cannot withhold urine and therefore I granted permission. The learned counsel for the review petitioner brought to my notice that the same person has come to Ernakulam to sign the vakkalath and therefore the case is not true.

2. After the amendment of Code of Civil Procedure in 2002 the rule is that one can be examined by a Commission and examination in Court is an exception. I feel that a medical certificate showing aliment is an additional

qualification for strictly implementing the intention of the legislature under Order 18 of the CPC. The Commissioner is an officer of the Court and examination by him will not in any way belittle or destroy the case of one party. I feel that the present review petitioner is insisting for his examination before Court most probably to bring to notice the demenour of the witness and other aspects. The Commissioner can also very well note the demenour if it is pointed out by the counsel while cross-examination and it can be taken note of by the Court. There is no apparent error on the face of the record so as to review the order. Hence, the review petition is dismissed with the above observation.

M.N. KRISHNAN, JUDGE.

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